

GIBSON, DUNN & CRUTCHER LLP  
GAIL LEES, SBN 90363  
[glees@gibsondunn.com](mailto:glees@gibsondunn.com)  
333 South Grand Avenue  
Los Angeles, California 90071-3197  
Telephone: (213) 229-7000  
Facsimile: (213) 229-7520

S. ASHLIE BERNING, SBN 263977  
SUSANNAH WRIGHT, SBN 264473  
[aberinger@gibsondunn.com](mailto:aberinger@gibsondunn.com)  
[swright2@gibsondunn.com](mailto:swright2@gibsondunn.com)  
1881 Page Mill Road  
Palo Alto, California 94304-1211  
Telephone: (650) 849-5300  
Facsimile: (650) 849-5333

YELP! INC.  
AARON SCHUR, SBN 229566  
[aschur@yelp.com](mailto:aschur@yelp.com)  
706 Mission Street  
San Francisco, California 94103  
Telephone: (415) 908-3801  
Facsimile: (415) 908-3833

Attorneys for Defendants  
YELP!, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

BORIS Y. LEVITT D/B/A RENAISSANCE  
RESTORATION, CATS AND DOGS ANIMAL  
HOSPITAL, INC., TRACY CHAN D/B/A  
MARINA DENTAL CARE and  
PROFESSIONAL CONSTRUCTION GROUP,  
INC. D/B/A PAVER PRO; on behalf of  
themselves and all others similarly situated,

#### **Plaintiffs.**

v.  
YELP! INC.; and DOES 1 through 100,  
inclusive.

## Defendants

Case No. CV 10-01321 MHP  
Consolidated with CV 10-02351 MHP

## CLASS ACTION

**SUPPLEMENTAL DECLARATION OF S.  
ASHLIE BERNING IN SUPPORT OF  
DEFENDANT YELP! INC.'S NOTICE OF  
MOTION AND MOTION TO DISMISS  
SECOND AMENDED CLASS ACTION  
COMPLAINT, AND TO DISMISS OR  
STRIKE CLASS ACTION ALLEGATIONS**

Date: February 7, 2011

Date: February  
Time: 2:00 p.m.

Time: 2:00 p.m.  
Place: Courtroom 15, 18<sup>th</sup> Floor  
450 Golden Gate Avenue  
San Francisco, California

Judge: The Honorable Marilyn H. Patel

1 I, S. Ashlie Beringer, declare as follows:

2 1. I am a partner at Gibson, Dunn and Crutcher LLP and lead counsel for Defendant  
 3 Yelp!, Inc. ("Yelp") in this litigation. I make this declaration based upon my personal knowledge of  
 4 the facts stated herein.

5 2. Attached as Exhibit 1 is a true and correct copy of the "Terms of Service" from Yelp's  
 6 website, <http://www.yelp.com/static?p=tos&country=US>, which is referenced in Plaintiffs' Second  
 7 Amended Complaint at paragraphs 6, 35, 39, 98, and footnote 4. The "Terms of Service" are also  
 8 incorporated by Plaintiffs into their definition of "Review Terms," (*see SAC ¶ 6*) which is referenced  
 9 throughout the Second Amended Complaint, including at paragraphs 7, 10, 65, 66, 85, 86, 88, 91,  
 10 104, 108, 116, and 120.

11 3. Attached as Exhibit 2 is a true and correct copy of the "Content Guidelines" page  
 12 from Yelp's website, <http://www.yelp.com/guidelines>, which is referenced in Plaintiffs' Second  
 13 Amended Complaint at paragraphs 6, 98, and footnote 4. The "Content Guidelines" are also  
 14 incorporated by Plaintiffs into their definition of "Review Terms," (*see SAC ¶ 6*) which is referenced  
 15 throughout the Second Amended Complaint, including at paragraphs 7, 10, 65, 66, 85, 86, 88, 91,  
 16 104, 108, 116, and 120.

17 4. I declare under penalty of perjury under the laws of the United States that the  
 18 foregoing is true and correct.

19 Executed on January 21, 2010 at Palo Alto, California

21 \_\_\_\_\_  
 22 /s/ Ashlie Beringer  
 23 S. Ashlie Beringer  
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